



STATE OF MISSOURI
OFFICE OF ADMINISTRATION
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT

NOTIFICATION OF STATEWIDE CONTRACT

February 2, 2012

CONTRACT TITLE: Exercise Class Program

CURRENT CONTRACT PERIOD: July 1, 2012 through June 30, 2013

BUYER INFORMATION: Julie Kleffner
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| RENEWAL INFORMATION | Original Contract Period | Potential Final Expiration |
|---------------------|------------------------------------|----------------------------|
| | July 1, 2008 through June 30, 2010 | June 30, 2013 |

ALL PURCHASES MADE UNDER THIS CONTRACT MUST BE FOR **PUBLIC USE ONLY**.
PURCHASES FOR PERSONAL USE BY PUBLIC EMPLOYEES OR OFFICIALS ARE PROHIBITED.

THE USE OF THIS CONTRACT IS NOT MANDATORY.

This contract has been established for the convenience of state agencies. Local Purchase Authority may be used to purchase supplies/services included in this contract from an alternative source at the discretion of the agency.

The entire contract document may be viewed and printed from the Division of Purchasing & Materials Management's **Awarded Bid & Contract Document Search** located on the Internet at <http://www.oa.mo.gov/purch>.

~ Instructions for use of the contract, specifications, requirements, and pricing are attached ~.

| CONTRACT NUMBER | VENDOR NUMBER | VENDOR INFORMATION | MBE/WBE | COOP PROCUREMENT |
|-----------------|---------------|---|---------|------------------|
| C308216001 | 4309532860 1 | Jefferson City Area YMCA 525 Ellis Blvd. PO Box 104176 Jefferson City MO 65110-4176 Phone: (573) 761-9021 Fax: (573) 635-0215 Email: jlopez@jcymca.org | No | No |

Through a contract with the Division of Purchasing and Materials Management, the YMCA operates an exercise class program for employees of the State of Missouri. In accordance with the contract, the YMCA provides the exercise class program in the Harry S Truman Building and, if requested, at any of the state office buildings in the Jefferson City and Cole County Area.

STATEWIDE CONTRACT HISTORY

The following summarizes actions related to this Notification of Statewide Contract since its initial issuance. Any and all revisions have been incorporated into the attached document.

| Contract Period | Issue Date | Summary of Changes |
|---------------------|------------|--|
| 07/01/12 – 06/30/13 | 02/02/12 | Renewal and Revised paragraph 2.1.2 of the RFP portion of the contract. |
| 07/01/11 – 06/30/12 | 07/05/11 | Renewal |
| 07/01/10 – 06/30/11 | 12/28/10 | Initial issuance of new statewide contract |

1. CONTRACTUAL REQUIREMENTS

1.1 General Requirements:

- 1.1.1 The contractor shall operate an exercise class program on behalf of the Office of Administration, Division of Facilities Management, Design, and Construction (hereinafter referred to as the state agency), for employees of the State of Missouri in accordance with the provisions and requirements stated herein.
- 1.1.2 The contractor shall provide exercise class program services in Room 103 of the Harry S Truman Building. With mutual agreement from the contractor and the state agency, the contractor shall provide services at one or more of the state office building sites in the Jefferson City and Cole County Area.
- 1.1.3 The contractor may advertise the contractor's exercise class programs. The method of advertising is left to the discretion of the contractor; however, the contractor must obtain prior approval of the state agency for all advertising related to the exercise class program.
- 1.1.4 The contractor and the contractor's employees shall refrain from any sort of solicitation of state employees into the contractor's exercise class program.
- 1.1.5 The contractor shall perform all services and to the sole satisfaction of the state agency.

1.2 State Agency Provisions:

- 1.2.1 The state agency will provide the space for the exercise class program in the Harry S Truman Building. In addition, the state agency shall provide separate locker rooms and restrooms for males and females located adjacent to the exercise space.
 - a. If the contractor is providing an exercise class program at other state office building sites, the space for the exercise class program shall be mutually agreed upon by the contractor and the state agency.
- 1.2.2 The state agency will provide and solely determine the use, placement, and retention of carpeting and mirrors in the Harry S Truman Building exercise class program rooms (hereinafter referred to as "fitness rooms"). In the event the state agency replaces the carpet in the fitness rooms, the contractor shall remove all equipment prior to installation and replace the equipment after carpet installation.
 - a. The state agency will not provide the contractor with an area to store equipment during the replacement of carpet.
- 1.2.3 The state agency will provide routine fitness room maintenance for walls, floors, fixtures, lights, doors, and any state-owned equipment and furniture. The contractor shall notify the state agency when maintenance is required.
 - a. The state agency will replace and install all fluorescent and incandescent lights as required.
- 1.2.4 The state agency will provide the cleaning of the fitness rooms, including mirrors, and will provide trash-pick up services.
- 1.2.5 The state agency will provide extermination services. If there are any insect problems, the contractor shall report such problems to the state agency.
- 1.2.6 The state agency will provide all utilities, (i.e., heat, air conditioning, water, and electricity) at no cost to the contractor. However, the state agency does not guarantee an uninterrupted supply of utilities.
- 1.2.7 The state agency reserves the right to inspect the fitness rooms at any time of the day without prior notification to the contractor.

1.2.8 The state agency will provide space in the first aide room located in fitness room 103 for small equipment for the exercise class program. In addition, the contractor may store small equipment for the exercise class program in fitness room 103 on a space available basis during exercise class program non-operating hours. The state agency shall not be responsible for theft, damage, etc. for any stored equipment.

1.3 Exercise Class Program Requirements: The contractor shall comply with the following requirements:

1.3.1 The contractor shall ensure that the fitness rooms be smoke-free and alcohol-free.

1.3.2 The contractor's exercise class program instructors must complete a medically approved, nationally accredited aerobic/exercise instructor certification process appropriate for the classes offered to the state employees. In addition, the instructors must be certified in CPR on an annual basis by the Red Cross or American Heart Association.

1.3.3 The contractor shall operate the exercise class program at an established time which is mutually agreed upon between the contractor and the state agency. The exercise class program shall not operate on Saturdays, Sundays, state holidays, or outside normal operating hours for the Harry S Truman Building. For informational purposes only, the normal operation hours of the Harry S Truman Building are 6:00 a.m. to 7:00 p.m.

1.3.4 The contractor shall provide all equipment, supplies, and materials, (e.g., mats, step benches, exercise bands, clock, music system, heart rate charts, etc.) necessary for the contractor's exercise class program. The equipment, supplies, and material must be in good condition and supplied in numbers sufficient to serve all exercise class program participants.

1.3.5 The state agency and the contractor shall inspect the fitness rooms prior to the effective date of the contractor and annually thereafter. Any damaged fixtures, marred walls, etc. that are existing, will be recorded by the state agency. The contractor shall sign and date such record indicating agreement. The contractor shall replace any and all fitness room contents (e.g., fixtures, wall mirrors, etc.) damaged as a result of negligence on the part of the contractor or the contractor's employees. Any maintenance/replacement required must be repaired under the direction of the state agency, and reimbursed in full by the contractor. The state agency shall provide the contractor with an itemized list of all labor and supplies, including copies of any invoices. The contractor shall reimburse the state agency within 30 calendar days of receipt of such.

1.3.6 The contractor shall turn the lights off upon completion of each exercise class.

1.3.7 Within 30 calendar days following the effective date of the contract, the contractor shall submit an exercise class program outline to the state agency. The outline shall identify the classes proposed, provide a description of each class, the time, days, and location for each class, minimum and maximum class size, duration of the class, and the cost to the class participant for participating in the class.

a. The contractor shall agree and understand that the classes, day, time, and location of the classes, minimum and maximum class size, and participant cost is subject to the approval of the state agency.

b. The contractor shall obtain the state agency's approval prior to making any changes to the exercise class program outline.

1.3.8 Unless otherwise specified herein, the contractor shall furnish all material, labor, equipment, and supplies necessary to perform the services required herein.

1.4 Payment Requirements:

1.4.1 The contractor shall submit the firm, fixed usage fee for the fitness rooms to the state agency. As specified in the Notice of Award, the contractor shall either (1) submit the yearly usage fee within 30 calendar days after the effective date of the contract, or (2) submit the monthly usage fee no later than the tenth working day of each month.

- a. If payment is not received, the state agency may suspend the exercise class program until receipt of payment.
 - b. If an exercise class program is provided at state office building site(s) other than the Harry S Truman Building, the state agency shall not assess a usage fee for such space.
- 1.4.2 The contractor shall receive payment for the exercise class program from the class participants. Such payment shall be in the amount stated in the contractor's approved exercise class program outline.
- a. The contractor shall understand and agree that the State of Missouri shall not assume responsibility for any costs associated with the provisions of the exercise class program services described herein to state employees. In addition, the contractor shall be solely responsible for the collection of payment from class participants.
- 1.4.3 Other than the payments specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

1.5 Other Contractual Requirements:

- 1.5.1 Contract - A binding contract shall consist of: (1) the RFP, amendments thereto, and any Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's proposal including any contractor BAFO response(s), (3) clarification of the proposal, if any, and (4) the Division of Purchasing and Materials Management's acceptance of the proposal by "notice of award". All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.
- a. A notice of award issued by the State of Missouri does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for the State of Missouri, the contractor must receive a properly authorized purchase order or other form of authorization given to the contractor at the discretion of the state agency.
 - b. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein.
 - c. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the Division of Purchasing and Materials Management prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.
- 1.5.2 Contract Period - The original contract period shall be as stated on page 1 of the Request for Proposal (RFP). The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period. The Division of Purchasing and Materials Management shall have the right, at its sole option, to renew the contract for three (3) additional one-year periods, or any portion thereof. In the event the Division of Purchasing and Materials Management exercises such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during the renewal period, pursuant to applicable option clauses of this document.
- 1.5.3 Renewal Periods - If the option for renewal is exercised by the Division of Purchasing and Materials Management, the contractor shall agree that the prices for the renewal period shall not be less than the minimum price for the applicable renewal period stated on the Pricing Page of the contract.
- a. If renewal prices are not provided, then prices during renewal periods shall be the same as during the original contract period.

- b. The Division of Purchasing and Materials Management does not automatically exercise its option for renewal based upon the minimum price and reserves the right to offer or to request renewal of the contract at a price less than the minimum price stated.

1.5.4 Termination - The Division of Purchasing and Materials Management reserves the right to terminate the contract at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract prior to the effective date of termination.

1.5.5 Contractor Liability - The contractor shall be responsible for any and all personal injury (including death) or property damage as a result of the contractor's negligence involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract. In addition, the contractor assumes the obligation to save the State of Missouri, including its agencies, employees, and assignees, from every expense, liability, or payment arising out of such negligent act.

- a. The contractor also agrees to hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract.
- b. The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.
- c. Under no circumstances shall the contractor be liable for any of the following: (1) third party claims against the state for losses or damages (other than those listed above); (2) loss of, or damage to, the state's records or data; or (3) economic consequential damages (including lost profits or savings) or incidental damages, even if the contractor is informed of their possibility.

1.5.6 Insurance - The contractor shall understand and agree that the State of Missouri cannot save and hold harmless and/or indemnify the contractor or employees against any liability incurred or arising as a result of any activity of the contractor or any activity of the contractor's employees related to the contractor's performance under the contract. Therefore, the contractor must acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its agencies, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract.

- a. The insurance coverage shall include general liability and appropriate professional liability. The insurance shall include an endorsement that adds the State of Missouri as an additional insured.
- b. Written evidence of the insurance shall be provided by the contractor to the state agency. The evidence of insurance shall include, but shall not necessarily be limited to: effective dates of coverage, limits of liability, insurer's name, policy number, endorsement by representatives of the insurance company, etc. Evidence of self-insurance coverage or of another alternative risk financing mechanism may be utilized provided that such coverage is verifiable and irrevocably reliable. The evidence of insurance coverage must be submitted before or upon award of the contract. The contract number must be identified on the evidence of insurance coverage.
- c. In the event the insurance coverage is canceled, the state agency must be notified immediately.

1.5.7 Subcontractors - Any subcontracts for the products/services described herein must include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the contractor and the State of Missouri and to ensure that the State of Missouri is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind related to a subcontract in those matters described in the contract between the State of Missouri and the contractor. The contractor shall expressly understand and agree that he/she shall assume and be solely responsible for all legal and financial responsibilities related to the execution of a subcontract. The contractor shall agree and understand that utilization of a subcontractor to provide any of the products/services in the

contract shall in no way relieve the contractor of the responsibility for providing the products/services as described and set forth herein.

- 1.5.8 Substitution of Personnel - The contractor agrees and understands that the State of Missouri's agreement to the contract is predicated in part on the utilization of the specific key individual(s) and/or personnel qualifications identified in the proposal. Therefore, the contractor agrees and understands that any substitution of the specific key individual(s) and/or personnel qualifications identified in the proposal must be with individual(s) of equal or better qualifications than originally proposed.
- 1.5.9 Authorized Personnel - The contractor understands and agrees that by signing the RFP, the contractor certifies the following:
- a. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
 - b. If the contractor is found to be in violation of this requirement or the applicable laws of the state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States, the state shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the contractor from doing business with the state.
 - c. The contractor agrees to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.
- 1.5.10 Contractor Status - The contractor represents himself or herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of the State of Missouri. Therefore, the contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the State of Missouri, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.
- 1.5.11 Coordination - The contractor shall fully coordinate all contract activities with those activities of the state agency. As the work of the contractor progresses, advice and information on matters covered by the contract shall be made available by the contractor to the state agency or the Division of Purchasing and Materials Management throughout the effective period of the contract.
- 1.5.12 Property of State - All documents, data, reports, supplies, equipment, and accomplishments prepared, furnished, or completed by the contractor pursuant to the terms of the contract shall become the property of the State of Missouri. Upon expiration, termination, or cancellation of the contract, said items shall become the property of the State of Missouri.
- 1.5.13 Confidentiality:
- a. The contractor shall agree and understand that all discussions with the contractor and all information gained by the contractor as a result of the contractor's performance under the contract shall be confidential and that no reports, documentation, or material prepared as required by the contract shall be released to the public without the prior written consent of the state agency.
- 1.5.14 Publicity - Any publicity release mentioning contract activities shall reference the contract number and the state agency. Any publications, including audiovisual items produced with contract funds, shall give credit to the contract and the state agency. The contractor shall obtain approval from the state agency prior to the release of such publicity or publications.

1.6 Business Associate Provisions:

1.6.1 Health Insurance Portability and Accountability Act of 1996 (HIPAA) - The state agency is subject to and must comply with provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all regulations promulgated pursuant to authority granted therein. The contractor constitutes a “Business Associate” of the state agency as such term is defined in the Code of Federal Regulations (CFR) at 45 CFR 160.103. Therefore, the term, “contractor” as used in this section shall mean “Business Associate.”

- a. The contractor shall agree and understand that for purposes of the Business Associate Provisions contained herein, terms used but not otherwise defined shall have the same meaning as those terms defined in 45 CFR parts 160 and 164, including, but not limited to the following:
 - 1) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
 - 2) “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR part 164, subpart C.
 - 3) “Enforcement Rule” shall mean the HIPAA Administrative Simplification: Enforcement; Final Rule at 45 CFR parts 160 and 164.
 - 4) “Individual” shall have the same meaning as the term “individual” in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502 (g).
 - 5) “Protected Health Information” as defined in 45 CFR 160.103, shall mean individually identifiable health information:
 - (1) Except as provided in paragraph (2) of this definition, that is: (i) Transmitted by electronic media; or (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or medium.
 - (2) Protected Health Information excludes individually identifiable health information in (i) Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; (ii) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and (iii) Employment records held by a covered entity [state agency] in its role as employer.
 - 6) “Electronic Protected Health Information” shall mean information that comes within paragraphs (1)(i) or (1)(ii) of the definition of Protected Health Information as specified above.
 - 7) Access, administrative safeguards, confidentiality, covered entity, data aggregation, designated record set, disclosure, hybrid entity, information system, physical safeguards, required by law, technical safeguards, use and workforce shall have the same meanings as defined in 45 CFR 160.103, 164.103, 164.304, and 164.501 and HIPAA.
- b. The contractor agrees and understands that wherever in this document the term Protected Health Information is used, it shall also be deemed to include Electronic Protected Health Information.
- c. The contractor must appropriately safeguard Protected Health Information which the contractor receives from or creates or receives on behalf of the state agency. To provide reasonable assurance of appropriate safeguards, the contractor shall comply with the business associate provisions stated herein.
- d. The state agency and the contractor agree to amend the contract as is necessary for the parties to comply with the requirements of HIPAA and the Privacy Rule, Security Rule, and Enforcement Rule (hereinafter referenced as the regulations promulgated thereunder).

1.6.2 Permitted uses and disclosures of Protected Health Information:

- a. The contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the state agency as specified in the contract, provided that such use or disclosure would not violate HIPAA and the regulations promulgated thereunder.
- b. The contractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1) and shall notify the state agency by no later than ten (10) calendar days after the contractor becomes aware of the disclosure of the Protected Health Information.

- c. If required to properly perform the contract and subject to the terms of the contract, the contractor may use or disclose Protected Health Information if necessary for the proper management and administration of the contractor's business.
- d. If the disclosure is required by law, the contractor may disclose Protected Health Information to carry out the legal responsibilities of the contractor.

1.6.3 Obligations of the contractor:

- a. The contractor shall not use or disclose Protected Health Information other than as permitted or required by the contract or as otherwise required by law.
- b. The contractor shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by the contract. Such safeguards may include, but shall not be limited to:
 - 1) Workforce training on the appropriate uses and disclosures of Protected Health Information pursuant to the terms of the contract.
 - 2) Policies and procedures implemented by the contractor to prevent inappropriate uses and disclosures of Protected Health Information by its workforce.
 - 3) Any other safeguards necessary to prevent the inappropriate use or disclosure of Protected Health Information.
- c. With respect to Electronic Protected Health Information, the contractor shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic Protected Health Information that contractor creates, receives, maintains or transmits on behalf of the state agency.
- d. The contractor shall require that any agent or subcontractor to whom the contractor provides any Protected Health Information received from, created by, or received by the contractor pursuant to the contract, also agrees to the same restrictions and conditions stated herein that apply to the contractor with respect to such information.
- e. By no later than ten (10) calendar days of receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall make the contractor's internal practices, books, and records, including policies and procedures and Protected Health Information relating to the use and disclosure of Protected Health Information received from, created by, or received by the contractor on behalf of the state agency available to the state agency and/or to the Secretary of the Department of Health and Human Services or designee for purposes of determining compliance with HIPAA and the regulations promulgated thereunder.
- f. The contractor shall document any disclosures and information related to such disclosures of Protected Health Information as would be required for the state agency to respond to a request by an individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528. By no later than five (5) calendar days of receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall provide an accounting of disclosures of Protected Health Information regarding an individual to the state agency.
- g. In order to meet the requirements under 45 CFR 164.524 regarding an individual's right of access, the contractor shall, within five (5) calendar days following a state agency request, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, provide the state agency access to the Protected Health Information in an individual's designated record set. However, if requested by the state agency, the contractor shall provide access to the Protected Health Information in a designated record set directly to the individual for whom such information relates.

- h. At the direction of the state agency, the contractor shall promptly make any amendment(s) to Protected Health Information in a designated record set pursuant to 45 CFR 164.526.
- i. The contractor shall report to the state agency's Security Officer any security incident immediately upon becoming aware of such incident and shall take immediate action to stop the continuation of any such incident. For purposes of this paragraph, security incident shall mean the attempted or successful unauthorized access, use, modification or destruction of information or interference with systems operations in an information system. This does not include trivial incidents that occur on a daily basis, such as scans, "pings," or unsuccessful attempts that do not penetrate computer networks or servers or result in interference with system operations. By no later than five (5) days after the contractor becomes aware of such incident, the contractor shall provide the state agency's Security Officer with a description of any remedial action taken to mitigate any harmful effect of such incident and a proposed written plan of action for approval that describes plans for preventing any such future security incidents.
- j. The contractor shall report to the state agency's Privacy Officer any unauthorized use or disclosure of Protected Health Information not permitted or required as stated herein immediately upon becoming aware of such use or disclosure and shall take immediate action to stop the unauthorized use or disclosure. By no later than five (5) calendar days after the contractor becomes aware of such use or disclosure, the contractor shall provide the state agency's Privacy Officer with a written description of any remedial action taken to mitigate any harmful effect of such disclosure and a proposed written plan of action for approval that describes plans for preventing any such future unauthorized uses or disclosures.
- k. Notwithstanding any provisions of the Terms and Conditions attached hereto, in order to meet the requirements under HIPAA and the regulations promulgated thereunder, the contractor shall keep and retain adequate, accurate, and complete records of the documentation required under these provisions for a minimum of six (6) years as specified in 45 CFR part 164.

1.6.4 Obligations of the State Agency:

- a. The state agency shall notify the contractor of limitation(s) that may affect the contractor's use or disclosure of Protected Health Information, by providing the contractor with the state agency's notice of privacy practices in accordance with 45 CFR 164.520.
- b. The state agency shall notify the contractor of any changes in, or revocation of, authorization by an Individual to use or disclose Protected Health Information.
- c. The state agency shall notify the contractor of any restriction to the use or disclosure of Protected Health Information that the state agency has agreed to in accordance with 45 CFR 164.522.
- d. The state agency shall not request the contractor to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA and the regulations promulgated thereunder.

1.6.5 Expiration/Termination/Cancellation - Except as provided in the subparagraph below, upon the expiration, termination, or cancellation of the contract for any reason, the contractor shall, at the discretion of the state agency, either return to the state agency or destroy all Protected Health Information received by the contractor from the state agency, or created or received by the contractor on behalf of the state agency, and shall not retain any copies of such Protected Health Information. This provision shall also apply to Protected Health Information that is in the possession of subcontractors or agents of the contractor.

- a. In the event the state agency determines that returning or destroying the Protected Health Information is not feasible, the contractor shall extend the protections of the contract to the Protected Health Information for as long as the contractor maintains the Protected Health Information and shall limit the use and disclosure of the Protected Health Information to those purposes that made return or destruction of the information infeasible. If at any time it becomes feasible to return or destroy any such Protected Health Information maintained pursuant to this paragraph, the contractor must notify the state agency and obtain instructions from the state agency for either the return or destruction of the Protected Health Information.

- 1.6.6 Breach of Contract– In the event the contractor is in breach of contract with regard to the business associate provisions included herein, the contractor agrees and understands that in addition to the requirements of the contract related to cancellation of contract, if the state agency determines that cancellation of the contract is not feasible, the State of Missouri may elect not to cancel the contract, but the state agency shall report the contractual breach to the Secretary of the Department of Health and Human Services.